

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRENT OPALEK, pro se,

Plaintiff,

v.

SUNDANCE REHABILITATION
CORP.,

Defendant.

CASE NO. C09-453RSM

ORDER OF DISMISSAL

Plaintiff Brent Opalek, appearing *pro se* and *in forma pauperis*, filed this employment discrimination case pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. ¶ 2000e-5. He alleges wrongful termination, sexual harassment, wrongful withholding of wages, conversion, COBRA violation, and defamation. Dkt. # 3. The matter is now before the Court for consideration of defendant's motion for summary judgment. Dkt. # 15. This motion was noted on the Court's calendar for consideration on July 9, 2010. As of this date, more than two months later, plaintiff has failed to respond in any way to the motion. Indeed, he has filed nothing at all since January 25, 2010, when he filed a Notice of Change of Address. Dkt. # 14.

1 Defendant has moved for summary judgment on the basis that plaintiff has no evidence to
2 support his claims. This is so because plaintiff failed to respond to Requests for Admission as
3 well as Interrogatories and Requests for Production sent by defendant. Declaration of David
4 Black, Dkt. # 17, ¶¶ 2, 4. Further, plaintiff failed to appear, without excuse, for a deposition that
5 was re-scheduled after he failed to appear for the first scheduled deposition. *Id.*, ¶¶ 7, 8, 9.

6 Pursuant to Local Rule CR 7, a party's failure to file opposition to a motion may be
7 deemed by the Court as an admission that the motion has merit. Local Rule CR 7(b)(2). This
8 alone would be cause for granting defendant's motion. Further, plaintiff's failure to respond to
9 Requests for Admission means that all items included therein are deemed admitted.
10 F.R.Civ.Proc. 36(a)(3). These deemed admissions entirely negate plaintiff's claims. *See*,
11 Declaration of David Black, Dkt. # 17, Exhibit A. Finally, a party's failure to attend his own
12 deposition is cause for sanctions up to and including dismissal of the action. F.R.Civ.P. 37(d)(3).
13 For all of these reasons, summary judgment at this time is appropriate.

14 Accordingly, defendant's motion for summary judgment (Dkt. # 15) is GRANTED and
15 this action is DISMISSED.

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17 Dated September 22, 2010.

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22 RICARDO S. MARTINEZ
23 UNITED STATES DISTRICT JUDGE
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